Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
18463

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR	Application Number	Filed
	10/516,086	November 29, 2004
on _____	First Named Inventor	
	Eiji Kasutani	
Signature _____	Art Unit	Examiner
Typed or printed name _____	2624	Jayesh A. Patel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
     Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
     See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
     (Form PTO/SB/96)

☑ attorney or agent of record.
     Registration number   30,749

☐ attorney or agent acting under 37 CFR 1.34.
     Registration number if acting under 37 CFR 1.34 _____

_____
Signature

Paul J. Esatto, Jr.
Typed or printed name

(516) 742-4343
Telephone number

April 21, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of   1   _ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kasutani et al.	Examiner: Jayesh A. Patel
Serial No.: 10/516,086	Art Unit: 2624
Filed: November 29, 2004	Docket: 18463
For: IMAGE SYSTEM	Dated: April 21, 2008

Conf. No.: 9654

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REVIEW

Sir:
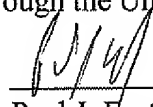
Applicants are submitting the following remarks in support of the Request for Review

filed concurrently with a Notice of Appeal on April 21, 2008. This Request for Review is

regarding the FINAL REJECTION of Claims 1 – 5, 9, 10, 12 – 15 and 22 – 23 dated October 19,

2007. The rejections to the claims and remarks are provided below.

CERTIFICATE OF ELECTRONIC FILING

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Dated: April 21, 2008

_____
Paul J. Esatto, Jr.

I. Rejection of Claims 1 – 3 and 9 – 10 Under 35 U.S.C. § 102(b)

Claims 1 – 3 and 9 – 10 are rejected over 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,052,492 issued to Bruckhaus.

The Examiner contends that Bruckhaus discloses an image description system (FIG.1 – 3) comprising a feature extracting unit (FIG. 2, 215) extracting color layout features from respective frames of an image sequence; a representative feature calculating unit (FIG. 2, 230) calculating a representative color layout feature representative of the image sequence from a group of color layout features extracted by the feature extracting unit. (See: col. 4, lines 35 – 56, col. 8, lines 24-41 and col. 10, lines 25-46).

Bruckhaus discloses identifying various features in an image, such as a basketball, shirts, etc. Even though color information may play a part in the identification process, Bruckhaus does not, however use this color information to calculate a representative color layout feature representative of the image sequence from a group of layout features of all frames extracted. Rather, Bruckhaus discloses that the unit extractor extracts all the units, i.e., an integral set of pixels representing a single physical object in a frame. Of these extracted units a plurality of the most predominant units are composited into a representative image. (See: FIG. 4 – 6b).

Regardless of whether Bruckhaus discloses attributes such as color brightness and motion, no where in Bruckhaus is a representative feature calculating unit disclosed for calculating a representative color layout feature representative of said image sequence from a group of said layout features of all frames extracted by said feature extracting unit.

Color layout feature within the context of the present invention has a specific meaning, which must be considered when asserting that a prior art reference discloses such a feature. Regarding the meaning of color layout feature within this context, Applicants point to FIG. 6 and

FIG. 7 for clear examples of color layout values. These color layout values are examples of color

layout features in the present invention, and thus provide a definition of the term "color layout

features" as used throughout the disclosure and claims. Also, as shown in FIG. 6 and 7, a

representative color layout feature representative of an image sequence from a group of layout

features of all frames in the image sequence are shown. (See: Total and Average rows in FIG. 6;

and Median row in FIG. 7). It is evident from Applicants' disclosure that the color layout features

are color component values, such as luminance and color difference.

Moreover, Applicants' disclosure provides clear definition of the term "color layout

feature" as applied throughout the specification and claims. Specifically, the specification recites:

"[T]hese layout features are defined in the International Standard ISO/IEC 15838-3 MPEG-7

VISUAL..." (See: page 23, lines 4 – 24).

In contrast, Bruckhaus explicitly defines a unit as "...an integral set of pixels representing

a single physical object in the frame." (See: col. 4, lines 35 – 50).

Unlike Bruckhaus, which generates a representative image from representative shapes

(i.e., physical objects) in the frames, the present invention generates a representative color layout

feature, such as a total color feature value, average color feature value or a median color feature

value, where these color feature values are essentially color component values as defined in the

above-mentioned ISO/IEC standard. Rather than being a combination of shapes representing the

image sequence, the representative color layout feature of the present invention is a single color

layout feature representative of the color layout features in the image sequence.

Given the fundamental difference in the meaning of "unit" as used in Bruckhaus and

"layout feature" as defined in Applicants' disclosure, one of ordinary skill in the art would not

equate one with the other. Therefore, Bruckhaus fails to properly anticipate all the features recited in Claims 1 – 3 and 9 – 10.

II.   Rejection of Claims 12 – 15, 22 and 23 Under 35 U.S.C. § 102(e)

Claims 12 – 15, 22 and 23 are rejected by the Examiner under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,400,890 issued to Nagasaka et al.

As with Bruckhaus, Nagasaka et al. fails to disclose calculating a representative color layout feature representative of the image sequence from a group of color layout features of all frames extracted. Rather, Nagasaka discloses a frame feature extractor that extracts a feature from each frame and assigns the extracted feature to represent the frame from which it was extracted. Thus, the extracted feature is not calculated to represent an image sequence.

In addition, the features that are extracted are not color layout features, as described above and defined within Applicants' disclosure. Rather as described in col. 14, line 37 – col. 15, line 30, these features are physical objects, existence of a camera work, existence of a special effect, existence of a title, etc. No mention is made, however, of color layout features in Nagasaka et al.

Therefore, Nagasaka et al. does not disclose each and every element recited in the present claims. Consequently, Nagasaka et al. fails to properly anticipate all the features recited in Claims 12 – 15, 22 and 23.

III.   Rejection of Claims 4 and 5 Under 35 U.S.C. § 103(a)

Claims 4 and 5 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly obvious over Bruckhaus in view of Nagasaka et al.

However, as discussed above, neither reference discloses calculating a representative color layout feature representative of the image sequence from a group of color layout features of

all frames extracted. Therefore, the references, taken alone or in any proper combination fail to disclose the features recited in Claim 1 from which Claims 4 and 5 depend.

CONCLUSIONS

Since Bruckhaus and Nagasaka et al., taken alone or in any proper combination, fail to anticipate, suggest or render obvious each and every limitation of independent Claims 1, 9, 10 and 20, the rejections under 35 U.S.C. § 102(b), 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) are improper.

Respectfully submitted,

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